

IN RE: PETITION FOR SPECIAL EXCEPTION*	BEFORE THE
(204 Reisterstown Road)	
3 rd Election District	*
2nd Council District	
Ezra Rahbaran	*
<i>Legal Owner</i>	
	*
	FOR BALTIMORE COUNTY
Petitioner	*
	Case No. 2021-0161-X
* * * * *	* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Exception filed on behalf of Ezra Rahbaran, legal owner and Elia Rahbaran, operator/lessee (collectively, the “Petitioner”) for the property located at 204 Reisterstown Rd., Pikesville (the “Property”). The Special Exception relief is requested from the Baltimore County Zoning Regulations (“BCZR”), §230.3 to approve the use of the Property as a service garage (auto repair shop).

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Petitioner Elia Rahbaran, attended the hearing. Herbert Burgunder, III, Esquire represented the Petitioner. Barry Silverman, Executive Director of Pikesville Community Corporation, testified at the hearing.

Zoning Advisory (ZAC) comments were received from the Department of Planning (DOP), Department of Environmental Protection and Sustainability (DEPS), and State Highway administration (SHA) which agencies did not oppose the requested relief.

FINDINGS OF FACT

The Property is 8,100 sf +/-, is improved with a vacant, commercial building which fronts on Reisterstown Rd. It is zoned Business, local (BL). The closest intersection on the southern

side is Milford Mill Rd. On the northern side of the Property are other auto businesses including a Mr. Tire and Meineke. On the south side is a convenience store (Xpress Mart) and an auto repair store (Community Garage). The building was previously used as a restaurant but has been vacant for 1-2 years. Petitioner proposes to operate an auto repair shop on the Property. Petitioner Elia Rahbaran has operated a mobile auto repair business for 8 years.

A site plan was prepared and sealed by Stephen Snyder, PE (the "Site Plan"). (Pet. Ex. 1). Photographs of the Property were submitted and show the existing building and one (1) sign in front. (Pet. Exs. 4). Petitioner proposes to use the existing building and renovate the interior by creating office space, removing an addition in the rear, and constructing two (2) service bays accessed from the rear of the building. One of the service bays will measure 14 ft. x 30 ft., and the other will measure 12 ft. x 30ft. There will be five (5) total parking spaces for customers with handicap parking in the front. The proposed use will meet all setbacks. The Petitioner intends to use the existing sign as updated with the name of the business.

In regard to Special Exception factors in BCZR, §502.1, Mr. Burgunder proffered that the proposed use will not be detrimental to the health, safety or general welfare of the locality. He stated that it is not a use which will cause overcrowding or congestion of people or traffic; customers will bring their cars in for service. The building footprint and height are not changing so there is no impact or light or air. The use has no impact on public improvements. Further, the Property is already improved with impervious surface (i.e. paved parking) and there are no environmental resources on or around the Property. Finally, Mr. Burgunder indicated that the proposed use is consistent with the intent of the BL zone and will be situated within and among other automotive businesses.

Barry Silverman attended the hearing on behalf of the Pikesville Community Corporation to become informed about the proposed use. Mr. Silverman indicated that the questions and/or concerns of Pikesville Community Corporation were in regard to the storage and sale of vehicles from the Property in order that it will not be a used car lot. Mr. Silverman stated that his questions were answered in that no storage of vehicles would occur on the Property other than in relation to the service and/or repair of the vehicle. Additionally, he was satisfied that no sale of vehicles would occur on the Property. In this regard, Mr. Silverman was informed that conditions would be placed in the Order.

SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Based on the exhibits and testimony detailed above, I find that the Special Exception relief should be granted as the proposed use meets each of the Special Exception factors in BCZR, §502.1 as outlined above and will not have any adverse impacts on the Property above and beyond those inherently associated with an auto repair shop elsewhere in the BL zone. The proposed use will be an improvement to the vacant building on a commercial lot and is compatible with the other auto businesses along this portion of Reisterstown Rd. I find the proposed use here will not be detrimental to the health, safety or general welfare of the area. The Property will be properly

screened from adjacent uses by a landscaped buffer and the replacement of an existing fence in the rear in accordance with the Landscape Manual.

THEREFORE, IT IS ORDERED this 20th day of **October 2021**, by this Administrative Law Judge, that the Petition for Special Exception relief from BCZR, §230.3 to approve the use of the Property as a service garage (auto repair shop) is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must comply with the DOP comments, a copy of which are attached hereto and made a part thereof.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.



MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM/dlm